

HOUSE BILL No. 1167

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5-1.1; IC 6-3.5-7-5.

Synopsis: Daviess County CAGIT. Allows Daviess County to impose the county adjusted gross income tax (CAGIT) at a rate of up to 0.25% in addition to the current rate of up to 1%. Allows the county to use the additional revenue from the increased rate only to pay for certain costs associated with the county jail, including the costs of repaying bonds issued, or leases entered into, to pay for those costs. Specifies that the term of any bonds or leases may not exceed 25 years. Provides that any funds accumulated after the redemption of bonds or the final payment of lease rentals shall be transferred to the county highway fund to be used for highways, roads, and bridges. Updates population parameters to reflect changes in the 2000 decennial census.

Effective: Upon passage.

Crooks

January 9, 2002, read first time and referred to Committee on Ways and Means.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1167

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.5-1.1-2, AS AMENDED BY P.L.135-2001,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 2. (a) The county council of any county in
4 which the county option income tax will not be in effect on July 1 of a
5 year under an ordinance adopted during a previous calendar year may
6 impose the county adjusted gross income tax on the adjusted gross
7 income of county taxpayers of its county effective July 1 of that year.
8 (b) Except as provided in section 2.5, 2.7, **2.9**, or 3.5 of this chapter,
9 the county adjusted gross income tax may be imposed at a rate of
10 one-half of one percent (0.5%), three-fourths of one percent (0.75%),
11 or one percent (1%) on the adjusted gross income of resident county
12 taxpayers of the county. Any county imposing the county adjusted
13 gross income tax must impose the tax on the nonresident county
14 taxpayers at a rate of one-fourth of one percent (0.25%) on their
15 adjusted gross income. If the county council elects to decrease the
16 county adjusted gross income tax, the county council may decrease the
17 county adjusted gross income tax rate in increments of one-tenth of one

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percent (0.1%).

(c) To impose the county adjusted gross income tax, the county council must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The _____ County Council imposes the county adjusted gross income tax on the county taxpayers of _____ County. The county adjusted gross income tax is imposed at a rate of _____ percent (____%) on the resident county taxpayers of the county and one-fourth of one percent (0.25%) on the nonresident county taxpayers of the county. This tax takes effect July 1 of this year."

(d) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(e) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(f) If the county adjusted gross income tax had previously been adopted by a county under IC 6-3.5-1 (before its repeal on March 15, 1983) and that tax was in effect at the time of the enactment of this chapter, then the county adjusted gross income tax continues in that county at the rates in effect at the time of enactment until the rates are modified or the tax is rescinded in the manner prescribed by this chapter. If a county's adjusted gross income tax is continued under this subsection, then the tax shall be treated as if it had been imposed under this chapter and is subject to rescission or reduction as authorized in this chapter.

SECTION 2. IC 6-3.5-1.1-2.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.9. (a) This section applies to a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000).**

(b) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to:

(1) finance, construct, acquire, improve, renovate, remodel, or equip the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs; and

(2) repay bonds issued or leases entered into for constructing, acquiring, improving, renovating, remodeling, and equipping



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the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs.

(c) In addition to the rates permitted by section 2 of this chapter, the county council may impose the county adjusted gross income tax at a rate of:

- (1) fifteen-hundredths percent (0.15%);
- (2) two-tenths percent (0.2%); or
- (3) twenty-five hundredths percent (0.25%);

on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (b). The tax imposed under this section may be imposed only until the later of the date on which the financing on, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b) are completed or the date on which the last of any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b) are fully paid. The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty-five (25) years.

(d) If the county council makes a determination under subsection (b), the county council may adopt a tax rate under subsection (b). The tax rate may not be imposed at a rate greater than is necessary to pay the costs of financing, acquiring, improving, renovating, remodeling, and equipping the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs.

(e) The county treasurer shall establish a county jail revenue fund to be used only for purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 11 of this chapter.

(f) County adjusted gross income tax revenues derived from the tax rate imposed under this section:

- (1) may be used only for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and

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(3) may be pledged to the repayment of bonds issued or leases entered into for purposes described in subsection (b).

(g) A county described in subsection (a) possesses unique governmental and economic development challenges due to:

(1) underemployment in relation to similarly situated counties and the loss of a major manufacturing business;

(2) an increase in property taxes for taxable years after December 31, 2000, for the construction of a new elementary school; and

(3) overcrowding of the county jail, the costs associated with housing the county's inmates outside the county, and the potential unavailability of additional housing for inmates outside the county.

The use of county adjusted gross income tax revenues as provided in this chapter is necessary for the county to provide adequate jail capacity in the county and to maintain low property tax rates essential to economic development. The use of county adjusted gross income tax revenues as provided in this chapter to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, remodeling, and equipping described under subsection (b), rather than the use of property taxes, promotes those purposes.

(h) Notwithstanding any other law, funds accumulated from the county adjusted gross income tax imposed under this section after:

(1) the redemption of bonds issued; or

(2) the final payment of lease rentals due under a lease entered into under this section;

shall be transferred to the county highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.

SECTION 3. IC 6-3.5-1.1-10, AS AMENDED BY P.L.135-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) One-half (1/2) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 8 of this chapter to the appropriate county treasurer on May 1 and the other one-half (1/2) on November 1 of that calendar year.

(b) Except for:

(1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

(2) revenue that must be used to pay the costs of construction, improvement, ~~or~~ renovation, ~~or~~ remodeling of a jail ~~and related~~



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buildings and parking structures under section 2.7 or 2.9 of this chapter; or

(3) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter;

distributions made to a county treasurer under subsection (a) shall be treated as though they were property taxes that were due and payable during that same calendar year. The certified distribution shall be distributed and used by the taxing units and school corporations as provided in sections 11 through 15 of this chapter.

(c) All distributions from an account established under section 8 of this chapter shall be made by warrants issued by the auditor of the state to the treasurer of the state ordering the appropriate payments.

SECTION 4. IC 6-3.5-1.1-11, AS AMENDED BY P.L.135-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except for:

(1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

(2) revenue that must be used to pay the costs of construction, improvement, ~~or~~ renovation, **or remodeling** of a jail **and related buildings and parking structures** under section 2.7 or 2.9 of this chapter; or

(3) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter;

the certified distribution received by a county treasurer shall, in the manner prescribed in this section, be allocated, distributed, and used by the civil taxing units and school corporations of the county as certified shares and property tax replacement credits.

(b) Before August 2 of each calendar year, each county auditor shall determine the part of the certified distribution for the next succeeding calendar year that will be allocated as property tax replacement credits and the part that will be allocated as certified shares. The percentage of a certified distribution that will be allocated as property tax replacement credits or as certified shares depends upon the county adjusted gross income tax rate for resident county taxpayers in effect on August 1 of the calendar year that precedes the year in which the certified distribution will be received. The percentages are set forth in the following table:

COUNTY	PROPERTY TAX	
	REPLACEMENT	CERTIFIED
ADJUSTED GROSS		



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1	INCOME TAX RATE	CREDITS	SHARES
2	0.5%	50%	50%
3	0.75%	33 1/3%	66 2/3%
4	1%	25%	75%

5 (c) The part of a certified distribution that constitutes property tax
6 replacement credits shall be distributed as provided under sections 12,
7 13, and 14 of this chapter.

8 (d) The part of a certified distribution that constitutes certified
9 shares shall be distributed as provided by section 15 of this chapter.

10 SECTION 5. IC 6-3.5-7-5, AS AMENDED BY P.L.135-2001,
11 SECTION 6, AS AMENDED BY P.L.185-2001, SECTION 3, AND
12 AS AMENDED BY P.L.291-2001, SECTION 179, IS AMENDED
13 AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON
14 PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the
15 county economic development income tax may be imposed on the
16 adjusted gross income of county taxpayers. The entity that may impose
17 the tax is:

18 (1) the county income tax council (as defined in IC 6-3.5-6-1) if
19 the county option income tax is in effect on January 1 of the year
20 the county economic development income tax is imposed;

21 (2) the county council if the county adjusted gross income tax is
22 in effect on January 1 of the year the county economic
23 development tax is imposed; or

24 (3) the county income tax council or the county council,
25 whichever acts first, for a county not covered by subdivision (1)
26 or (2).

27 To impose the county economic development income tax, a county
28 income tax council shall use the procedures set forth in IC 6-3.5-6
29 concerning the imposition of the county option income tax.

30 (b) Except as provided in subsections (c), ~~and~~ (g), ~~or~~ (k), the
31 county economic development income tax may be imposed at a rate of:

32 (1) one-tenth percent (0.1%);

33 (2) two-tenths percent (0.2%);

34 (3) twenty-five hundredths percent (0.25%);

35 (4) three-tenths percent (0.3%);

36 (5) thirty-five hundredths percent (0.35%);

37 (6) four-tenths percent (0.4%);

38 (7) forty-five hundredths percent (0.45%); or

39 (8) five-tenths percent (0.5%);

40 on the adjusted gross income of county taxpayers.

41 (c) Except as provided in subsection (h), (i), ~~or~~ (j), ~~or~~ (k), **or (l)**, the
42 county economic development income tax rate plus the county adjusted

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gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(g) This subsection applies to ~~a county having a population of more than one hundred twenty-nine thousand (129,000) but less than one hundred thirty thousand six hundred (130,600);~~ **a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000).** In addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:

(A) fifteen-hundredths percent (0.15%);

(B) two-tenths percent (0.2%); or

(C) twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%); if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For ~~a county having a population of more than thirty-seven thousand (37,000) but less than thirty-seven thousand eight hundred (37,800);~~ **a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000),** the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has



imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000); a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than sixty-eight thousand (68,000) but less than seventy-three thousand (73,000); a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(f) This subsection applies to a county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand three hundred (27,300). In addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(k) This subsection applies to a county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand three hundred (27,300); a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). In addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.



(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

SECTION 6. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of state revenue.

(b) Notwithstanding IC 6-3.5-1.1-3, the county council of a county described in IC 6-3.5-1.1-2.9, as added by this act, may adopt an ordinance to increase the county's county adjusted gross income tax rate after March 31, 2002, and before September 20, 2002.

(c) Notwithstanding IC 6-3.5-1.1-3, an ordinance adopted under this SECTION before June 1, 2002, takes effect July 1, 2002. In determining the certified distribution for the calendar year beginning January 1, 2003, as required under IC 6-3.5-1.1-9 to be performed before July 2, 2002, for a county adopting an ordinance within the time specified in this subsection, the department shall take into account the certified ordinance forwarded to the department under IC 6-3.5-1.1-3(c) in determining the amount of the county's certified distribution for the calendar year beginning January 1, 2003.

(d) Notwithstanding IC 6-3.5-1.1-3, an ordinance adopted under this SECTION after May 31, 2002, takes effect January 1, 2003. Not later than thirty (30) days after receiving the certified ordinance under IC 6-3.5-1.1-3(c) from a county adopting an ordinance within the time specified in this subsection, the department shall revise the county's certified distribution determined under IC 6-3.5-1.1-9 for the calendar year beginning January 1, 2003, to take into account the increased county adjusted gross income tax rate specified in the certified ordinance. Notwithstanding IC 6-3.5-1.1-10, as amended by this act, the first distribution reflecting the increased county adjusted gross income tax rate shall be made to the county treasurer beginning November 1, 2003.

(e) This SECTION expires January 1, 2004.

SECTION 7. An emergency is declared for this act.



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